

Readopt with amendment Env-Sw 101 and Env-Sw 102, effective 10-28-05 (Document #8460-B), cited and to read as follows:

CHAPTER Env-Sw 100 SOLID WASTE PROGRAM: PURPOSE, APPLICABILITY, AND DEFINITIONS

Statutory Authority: RSA 149-M:7

PART Env-Sw 101 PURPOSE AND APPLICABILITY

Env-Sw 101.01 Purpose. The purpose of the rules in subtitle Env-Sw is to minimize risks to the environment and public health and safety by assuring proper management of solid waste.

Env-Sw 101.02 Applicability.

- (a) The rules in subtitle Env-Sw shall apply to management of solid waste in New Hampshire.
- (b) In subtitle Env-Sw, any requirement that applies to a permitted facility shall be a requirement that applies to the permittee.
- (c) In subtitle Env-Sw, any requirement that applies to an unpermitted facility shall be a requirement that applies to the facility owner.
- (d) The rules in subtitle Env-Sw shall not be construed to preclude compliance with other federal or state statutes, rules, or regulations. If a conflict arises between the rules in subtitle Env-Sw and any federal or state statute, rule, or regulation, the more stringent requirement(s) shall apply.

Env-Sw 101.03 Solid Waste Exclusions. The solid waste rules shall not apply to the following wastes and materials:

- (a) Hazardous waste as defined in RSA 147-A:2, including a solid waste which the generator formally declares in accordance with ~~Env-Wm-Hw~~ 502.01(e)(2) to be a hazardous waste and which is subsequently managed as a hazardous waste pursuant to the requirements of RSA 147-A;
- (b) Solid or dissolved materials in irrigation return flows;
- (c) Cut or uprooted stumps buried on-site with local approval, if required, provided that such burial locations are not located within 75 feet of any drinking water supply;
- (d) Municipal and industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended;
- (e) Radioactive materials as defined and regulated by the New Hampshire rules for the control of radiation, ~~He-P 2000 and He-P 4000~~;
- (f) Septage as defined in RSA 485-A:2, IX-a;
- (g) Sludge as defined in RSA 485-A:2, XI-a, namely “the solid or semi-solid material produced by water and wastewater treatment processes, excluding domestic septage; provided, however, sludge which is disposed of at solid waste facilities permitted by the department shall be considered solid waste and regulated under RSA 149-M”;
- (h) Yard waste;
- (i) Bodies of deceased persons; and

(j) Waste-derived products which are certified for distribution and use pursuant to Env-Sw 1500 and actively managed.

Env-Sw 101.04 Solid Waste Facility Exclusions. The solid waste rules shall not apply to a facility that has demonstrated to the department, by complying with the registration requirements in Env-Sw 309, that it ~~ceased operating~~ ***stopped receiving waste*** before July 10, 1981.

PART Env-Sw 102 SOLID WASTE RULE DEFINITIONS: A THROUGH E

Env-Sw 102.01 ***"100-year flood" means a flood that has a one percent (1 in 100) chance of being equaled or exceeded in any given year.***

Env-Sw 102.02 "500-year flood" means a flood that has a 0.2 percent (1 in 500) chance of being equaled or exceeded in any given year.

Env-Sw 102.043 "Abutter" means "abutter" as defined by ~~in~~ ***in*** RSA 149-M:4, I, namely "any person who owns property adjacent to, or across a road, railroad, or stream from the property on which a solid waste facility may be permitted."

Env-Sw 102.024 "Accumulated waste" means the quantity of waste stored at a facility in excess of the storage capacity specified in the permit or permit exemption.

Env-Sw 102.035 "Active life" means that period of time at a facility during which solid waste is or will be received, processed, treated or disposed, beginning with the date of first waste receipt and ending with the date waste is last received, processed, treated or disposed. The term includes both operating and non-operating days falling between the described beginning and ending points.

Env-Sw 102.046 "Actively manage" means to handle a waste or material, including waste-derived products and recyclable materials, in a controlled manner without causing:

- (a) A nuisance;
- (b) An adverse effect to the environment, public health and safety;
- (c) Accumulations which have no identifiable destination or value; and
- (d) A loss of material value in the market place due to material damage, degradation and/or contamination.

Env-Sw 102.07 "Advanced recycling" means "advanced recycling" as defined in RSA 149-M:4, I-a, namely "a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic raw materials, feedstock chemicals, and other products like waxes and lubricants through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, and other similar technologies. For the purposes of this chapter [RSA 149-M], the primary products of advanced recycling shall not include hydrocarbons which are marketed, sold, or used as fuel for energy. Incidental products may be used for fuel only within the facility. For the purposes of this chapter [RSA 149-M], "advanced recycling" shall not be considered solid waste management, solid waste processing, waste processing, treatment, incineration, or combustion."

Env-Sw 102.08 "Advanced recycling facility" means "advanced recycling facility" as defined in RSA 149-M:4, I-b, namely "a facility that receives, stores, and converts post-use polymers and recovered feedstock it receives using advanced recycling. An advanced recycling facility shall be considered a manufacturing facility. For the purpose of this chapter [RSA 149-M], "advanced recycling facility" shall not include a facility, solid waste facility, solid waste management facility, waste management facility,

processing/treatment facility, solid waste collection, storage, and transfer facility, processing facility, treatment facility, or an incinerator.”

Env-Sw 102.09 “Affiliate” means a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the applicant, registrant, or permittee.

Env-Sw 102.10 “Alternate daily cover” means a material, other than natural soils, approved by the department for use as daily cover.

~~Env-Sw 102.0511~~ ***“Amended water” means water to which a chemical wetting agent, such as a surfactant, has been added to improve penetration of the water into asbestos or other materials to limit the potential for airborne particulates.***

~~Env-Sw 102.0712~~ ***“Applicant” means the person applying for a permit, permit modification, certificate, waiver or other approval pursuant to the solid waste rules and who will be responsible for complying with the provisions of the approval, if granted. “Applicant” means the person applying for a permit, permit modification, certificate, waiver or other approval pursuant to the solid waste rules and who will be responsible for complying with the provisions of the approval, if granted.***

~~Env-Sw 102.0813~~ ***“Application” means information and documentation submitted to the department by an applicant to request a permit, permit modification, certificate, waiver or other approval pursuant to the solid waste rules. “Application” means information and documentation submitted to the department by an applicant to request a permit, permit modification, certificate, waiver or other approval pursuant to the solid waste rules.***

~~Env-Sw 102.0614~~ ***“Approved bulking agent” means any material which a facility is authorized in the permit or by the solid waste rules to mix with waste to provide, for processing or treatment of the waste, a source of carbon, air spaces and liquid absorption. The term includes waste derived products certified for distribution and use as a bulking agent pursuant to Env Sw 1500. “Approved bulking agent” means any material which a facility is authorized in the permit or by the solid waste rules to mix with waste to provide, for processing or treatment of the waste, a source of carbon, air spaces and liquid absorption. The term includes waste-derived products certified for distribution and use as a bulking agent pursuant to Env-Sw 1500.***

~~Env Sw 102.09~~ ***“Approved design capacity” means the quantity of waste a facility is authorized to manage, expressed as follows:***

~~—~~ ***(a) For all facilities, the average weekly tonnage to be received at the facility during the quarter in which the most waste is anticipated to be received, as specified in the permit or the permit exemption;***

~~—~~ ***(b) For processing or treatment or transfer facilities:***

~~(1) The rated through put capacity of the equipment for processing of solid waste, as specified in the permit or permit exemption; and~~

~~(2) The approved storage capacity; and~~

~~—~~ ***(c) For landfills, the approved design volume.***

~~Env Sw 102.10~~ ***“Approved design volume” means the maximum in place volume of waste, including cover materials, to be received at a landfill during its active life, as specified in the permit or the permit exemption.***

~~Env-Sw 102.11 “Approved storage capacity” means the maximum quantity of waste which a facility is authorized to store, pending removal, processing, treatment or disposal as specified in the permit or permit exemption.~~

Env-Sw 102.125 “Aquifer” means a geological formation, group of formations, or part of a formation, that is capable of yielding usable quantities of groundwater.

Env-Sw 102.136 “Asbestos” means asbestos as defined by *in* RSA 141-E:2, I, namely "amosite, chrysotile, crocidolite, or asbestiform tremolite, actinolite, or anthophyllite."

Env-Sw 102.17 “Asbestos-Containing Material (ACM)” means any material that contains any type of asbestos in an amount greater than one percent by weight, area, or volume, either alone or mixed with other fibrous or non-fibrous materials.

Env-Sw 102.148 “Asbestos waste” means:

~~(a) Solid waste that contains more than one percent asbestos by weight;~~ ***Any asbestos or asbestos-containing material, product, or by-product that is discarded or abandoned; and***

(b) Any asbestos-containing ~~solid waste~~ ***material*** that is collected in a pollution control device designed to remove asbestos.

~~(c) The entire volume and weight of any waste identified in (a) or (b) above when mixed with any other material or any solid waste.~~

Env-Sw 102.159 “Asbestos waste site” means any site that is not permitted to receive asbestos, where asbestos waste, either on the surface or subsurface, is located.

Env-Sw 102.20 “Authorized contact” means the primary contact associated with and designated by the facility owner, applicant, registrant, or permittee to be the contact individual for the proposed or existing facility.

Env-Sw 102.4621 “Authorized facility” means a facility holding all requisite federal, state or local permits, licenses or approvals. As applied to a New Hampshire facility, the term includes both permitted facilities and permit-exempt facilities which hold all requisite federal and local permits, licenses or approvals.

Env-Sw 102.4722 “Authorized waste” means a waste that is approved by the department for receipt by a facility, as specified in the permit or permit exemption as applicable.

~~Env-Sw 102.18 “Base flood” means a flood that has a one percent chance of being equaled or exceeded in any given year. The term includes “100-year flood.”~~

Env-Sw 102.493 “Bill of lading” means a receipt, issued by the transporter, listing waste and/or materials shipped.

Env-Sw 102.204 “Biologicals” means preparations made from living organisms and their products, including vaccines and cultures, intended for use in diagnosing, immunizing, or treating humans or animals or in research pertaining thereto.

Env-Sw 102.245 “Body fluids” means liquid emanating or derived from humans and limited to blood, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids and semen and vaginal secretions.

Env-Sw 102.226 “Bottom ash” means the ash residue remaining after combustion of solid waste, fossil fuel, wood, sludge or other materials in an incinerator that is discharged through and from the grates, combustor or stoker.

Env-Sw 102.237 “Bulky waste” means large items that cannot be handled by normal solid waste processing, collection or disposal methods, such as ~~appliances~~ ***white goods***, furniture, large auto parts, tires, and, when they are not buried on-site in accordance with RSA 149-M:4, XXII, tree stumps.

Env-Sw 102.248 “Bypass waste” means any waste that is delivered to a processing or treatment facility but cannot be processed or treated by the facility. The term includes downtime waste, excess waste, unsuitable waste, and accumulated waste.

Env-Sw 102.259 “Call” means action by the department to invoke the provisions of a temporary permit requiring the permittee to either commence the facility closure process or the process for obtaining a permanent permit issued pursuant to RSA 149-M and the solid waste rules for continued operation of the facility.

Env-Sw 102.2630 “Cap” means the final cover placed over solid waste at a landfill to minimize the amount of precipitation contacting the solid waste, to prevent contact with the solid waste and to assist in the collection of landfill gas.

Env-Sw 102.2731 “Capacity needs” means the amount of facility capacity identified as necessary to accommodate the management of solid waste for:

(a) The state, as contained in the most recent version of the state solid waste plan required by RSA 149-M:6, VI; and

(b) A solid waste management district, as contained in the most recent version of that district's solid waste plan required by RSA 149-M:24, IV.

Env-Sw 102.2832 “Cell” means, within a landfill, the smallest unit of subdivided area which is surrounded by berms that hydraulically separate the cell, when active, from other cells of the landfill when such other cells have not yet received wastes or been constructed.

Env-Sw 102.2933 “Certified operator” means an individual certified pursuant to Env-Sw 1600.

Env-Sw 102.304 “Certified waste-derived product” means a ***“certified waste-derived product” as defined in RSA 149-M:4, II-a, namely “a constituent of solid waste which is no longer regulated as a solid waste when certified by the department to be recyclable for its original use or alternate uses and which poses no greater risk to the environment, public health, and safety than exists by producing, distributing, using, or disposing comparable products which are not waste-derived. Products derived from advanced recycling shall not be considered waste-derived products or require certification as waste-derived products.” The term also includes any*** waste-derived product certified for distribution and use pursuant to Env-Sw 1500.

Env-Sw 102.315 “Closure” means the procedures used to permanently cease use of a facility, or portion thereof, in a manner that will minimize future risks of environmental damage and includes all required post-closure inspection, monitoring and maintenance activities.

Env-Sw 102.326 “Coefficient of permeability” means saturated hydraulic conductivity and is the rate of laminar flow of water through a unit cross-sectional area of porous medium under a unit hydraulic gradient at a standard temperature.

Env-Sw 102.337 “Collection, storage and transfer facility” means a facility which collects waste from any location, stores the waste for a limited period of time and subsequently transfers the waste to another location without having changed the characteristics of the waste as received except by having sorted, packaged or compacted the waste. The term includes “transfer station” as defined ~~by~~ ***in*** Env-Sw 104.5463, “recycling facility” as defined ~~by~~ ***in*** Env-Sw 104.205, stockpiles of waste, and collection devices such as dumpsters.

Env-Sw 102.348 “Combined ash” means a mixture of bottom ash and fly ash.

Env-Sw 102.359 “Commercial facility” means a facility which receives waste from an unlimited service area. The term does not include limited public and limited private facilities.

Env-Sw 102.3640 “Commissioner” means the commissioner as defined ~~by~~ ***in*** RSA 149-M:4, III, namely “the commissioner of the department of environmental services.”

Env-Sw 102.3741 “Compost” means “compost” as defined ~~by~~ ***in*** RSA 149-M:4, IV, namely “a stable, humus-like substance which is derived from a process involving the biological decomposition of any readily biodegradable material, such as animal manure, garbage, yard waste, septage, sludge, or other organic solid wastes, and which can be beneficially re-used for land application.”

Env-Sw 102.3842 “Composting facility” means a facility which produces compost.

Env-Sw 102.3943 “Confidential business information” means information that is exempt from disclosure under RSA 91-A:5, IV.

Env-Sw 102.404 “Construction and demolition debris” means non-putrescible waste building materials and rubble which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes, but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and electrical wiring and components, incidental to any of the above and containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks.

Env-Sw 102.415 “Contingency plan” means a document describing organized, planned, and technically-coordinated courses of action to be followed by a facility in case of emergency or other special conditions, such as equipment breakdowns; fire; odor; vectors; explosion; spills; receipt or release of hazardous or toxic materials or substances; groundwater, surface water or air contamination attributable to a facility; and other incidents that could threaten human health or safety or the environment.

Env-Sw 102.426 “Council” means the waste management council established by RSA 21-O:9.

Env-Sw 102.437 “Cover material” means soil or other functionally equivalent material that is placed over solid waste at a landfill. The term does not include materials used to construct a landfill capping system.

Env-Sw 102.48 “Daily cover” means the natural soils applied to the working face of a landfill at the end of each operating day.

Env-Sw 102.449 “Department” means “department” as defined ~~by~~ ***in*** RSA 149-M:4, V, namely “the department of environmental services.”

Env-Sw 102.50 “Depolymerization” means “depolymerization” as defined in RSA 149-M:4, V-a, namely “a manufacturing process where post-use polymers are broken into smaller molecules such as monomers, oligomers, plastic or chemical feedstocks, or other basic raw materials.”

Env-Sw 102.51 “Design capacity” means the quantity of waste a facility is designed to manage, expressed as follows:

(a) For all facilities:

(1) The maximum daily tonnage to be received at a facility;

(2) The average weekly tonnage to be received at the facility during the quarter in which the most waste is anticipated to be received; and

(3) The design storage capacity;

(b) For processing or treatment or transfer facilities, the rated through-put capacity of the equipment for processing of solid waste, and:

(c) For landfills, the design volume.

Env-Sw 102.52 “Design storage capacity” means the maximum quantity of waste, expressed in cubic yards and tons, which a facility is designed to store, not including design volume.

Env-Sw 102.53 “Design volume” means the maximum in-place volume of waste, including cover materials, to be received at a landfill during its active life.

~~Env-Sw 102.45~~***54 “Designated river” means that portion of a river which has been specifically designated by the general court pursuant to RSA 483:15.***

~~Env-Sw 102.46~~***55 “Director” means the director of the division of waste management.***

~~Env-Sw 102.47~~***56 “Discharge” means the accidental or intentional release, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of any solid waste or solid waste constituent, including leachate, into or on any air, land or water.***

~~Env-Sw 102.48~~***57 “Disposal” means “disposal” as defined by in RSA 149-M:4, VI, namely “the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or onto any land or water with the possible result that such solid waste or any constituent of it may enter the environment, be emitted into the air, or be discharged into any waters, including groundwater.”***

~~Env-Sw 102.49~~***58 “District” means “district” as defined by in RSA 149-M:4, VII, namely “a solid waste management district established under “RSA 149-M:24”.***

~~Env-Sw 102.50~~***9 “District plan” means “district plan” as defined by in RSA 149-M:4, VIII, namely “the plan developed for waste management within a district, and approved by the department.”***

Env-Sw 102.60 “Diversion” means the management of solid waste by methods other than landfilling or incineration. Diversion includes recycling, composting, reuse, and energy recovery not involving combustion. Diversion does not include use of materials for alternate daily cover at landfills or the incineration of solid waste to produce energy.

~~Env-Sw 102.54~~***61 “Division” means the division of waste management within the department of environmental services.***

~~Env-Sw 102.52~~***62 “Dormant application” means an application for which the applicant has failed to submit the information required to complete the application within 12 months of the date the department first notifies the applicant that the application is first deemed incomplete by the department.***

~~Env-Sw 102.53~~***63 “Downtime waste” means any processable or treatable solid waste accumulated during a scheduled or unscheduled shut-down of facility operations.***

Env-Sw 102.64 “Electronic waste” means “electronic waste” as defined in RSA 149-M:4, VIII-a, namely “includes computer monitors containing a cathode ray tube, laptop computers, liquid crystal display (LCD) computer monitors, plasma and LCD televisions, printers, cell phones, copiers, fax machines, and video display media recorder/players.”

Env-Sw 102.~~5465~~ “Emergency permit” means a permit issued pursuant to the solid waste rules which authorizes waste management activities at a facility for a limited period of time in response to an emergency for which no other readily available response exists and for which a delayed response to obtain another type of permit would result in an unnecessary risk to public health, safety or the environment.

Env-Sw 102.~~5566~~ “Emergency permit facility” means a facility authorized or requiring authorization by issuance of an emergency permit.

Env-Sw 102.~~5667~~ “Encapsulant or sealant” means a substance applied to a material, such as friable asbestos, which controls the release of airborne fibers or particles.

Env-Sw 102.68 “End-of-life motor vehicle” means “end-of-life motor vehicle” as defined in RSA 149-M:4, VIII-b, namely “a wrecked, worn-out, junk, or other motor vehicle that is no longer intended for use according to its original purpose and is destined for final disposal. The term does not include a motor vehicle that is being kept for repair or restoration, or that is temporarily impounded pending identification of last owner of record or settlement of an insurance claim.”

Env-Sw 102.~~5769~~ “Endangered or threatened species” means any species protected under the Federal Endangered Species Act or under NH RSA 212-A, Endangered Species Conservation Act.

Env-Sw 102.~~5870~~ “Environmental monitoring points” means locations, monitoring wells, ***gas probes***, and devices for sampling air, soil, groundwater or surface water at a facility.

Env-Sw 102.~~5971~~ “Excess waste” means solid waste which cannot be processed or treated because the facility is operating at its approved design capacity.

Env-Sw 102.~~6072~~ “Existing facility” means a facility that was in existence prior to October 29, 1997.

Env-Sw 102.~~6173~~ “Expansion” means an increase in the approved design capacity, approved design volume or approved storage capacity of a facility.

Readopt Env-Sw 103.01 and Env-Sw 103.02, effective 10-28-05 (Document #8460-B), cited and to read as follows:

PART Env-Sw 103 SOLID WASTE RULE DEFINITIONS: F THROUGH O

Env-Sw 103.01 “Facility” means “facility” as defined in RSA 149-M:4, IX, namely “a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste.” The term includes “solid waste facility,” “waste management facility” and “solid waste management facility.”

Env-Sw 103.02 “Facility identification” means, in the context of filing an application or registration pursuant to the solid waste rules, all of the following information for a facility:

- (a) Name;
- (b) Functional classification pursuant to Env-Sw 302.05;
- (c) Mailing address;
- (d) Permit number, if applicable;
- (e) Location by street address and municipality; and
- (f) If not yet issued a permit:

- (1) Local tax map and lot numbers;
- (2) Deed reference by county, volume and page numbers;
- (3) A plotting on a United States Geological Survey (USGS) topographic map, or copy thereof, prepared at a scale of 1:24,000 or 1:25,000;
- (4) Latitude and longitude of a known fixed point on the site; and
- (5) Written directions from a known point of reference in the vicinity of the facility site.

Adopt Env-Sw 103.03 and Env-Sw 103.04 to read as follows:

Env-Sw 103.03 “Facility operator” means the person to whom operation of a facility, in whole or in part, has been contracted or otherwise delegated by the permittee through written agreement. The term does not include certified operator as defined in Env-Sw 102.33.

Env-Sw 103.04 “Facility owner” means a person who owns a facility or part of a facility.

Readopt and renumber Env-Sw 103.03 and Env-Sw 103.04, effective 10-28-05 (Document #8460-B), as Env-Sw 103.05 and Env-Sw 103.06 to read as follows:

Env-Sw 103.035 “Floodplain” means the land area adjoining inland or coastal waters which is capable of being inundated by a ~~base~~-flood.

Env-Sw 103.046 “Fly ash” means the ash residue from the combustion of solid waste, fossil fuel, wood, sludge, or other material that is entrained in the gas stream of the incinerator and removed by the air pollution control equipment.

Adopt Env-Sw 103.07 to read as follows:

Env-Sw 103.07 “Food waste” means “food waste” as defined in RSA 149-M:4, IX-a, namely “the organics residues generated by the handling, preparation, storage, sale, and serving of foods and beverages. The term includes pre-consumer and post-consumer organic residues, food scraps, and non-petroleum oil used for food preparation provided it does not contain sanitary wastewater.”

Readopt and renumber Env-Sw 103.05, effective 10-28-05 (Document #8460-B), as Env-Sw 103.08 to read as follows:

Env-Sw 103.058 “Footprint” means:

(a) For a permitted landfill or stockpile, the area in which solid waste actually exists or formerly existed, or is proposed to be placed, as authorized in the permit, regardless of whether solid waste has actually been deposited;

(b) For a proposed landfill or stockpile, the area in which solid waste is to be placed as proposed in the permit application; and

(c) For any other landfill or stockpile, the area in which solid waste actually exists.

Readopt with amendment and renumber Env-Sw 103.06, effective 10-28-05 (Document #8460-B), as Env-Sw 103.09 to read as follows:

Env-Sw 103.069 “Friable asbestos” means “friable asbestos material” as defined by *in* 40 CFR 61, namely “any material containing more than one percent asbestos as determined using the method specified in

appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.”

Adopt Env-Sw 103.10 and Env-Sw 103.11 to read as follows:

Env-Sw 103.10 “Gasification” means “gasification” as defined in RSA 149-M:4, IX-a, namely “a manufacturing process through which recovered feedstocks are heated and converted into synthesis gas in an oxygen-deficient atmosphere and the mixture is converted into valuable raw materials.”

Env-Sw 103.11 “General permit” means “general permit” as defined in RSA 149-M:4, IX-b, namely “a permit which contains terms and conditions applicable to a specific category of facility, which applies to any facility in that category which has submitted the required information and agreed to abide by the stated terms and conditions.”

Readopt and renumber Env-Sw 103.07 through Env-Sw 103.10, effective 10-28-05 (Document #8460-B), as Env-Sw 103.12 through Env-Sw 103.15 to read as follows:

Env-Sw 103.0712 “Generator” means any person whose act or process produces a waste or whose act first causes waste to be subject to regulation.

Env-Sw 103.0813 “Geocomposite” means a manufactured material using geotextiles, geogrids, geomembranes, or combinations of same, in a laminated or composite form.

Env-Sw 103.0914 “Geogrid” means a netlike polymeric material used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system to provide reinforcement to soil slopes.

Env-Sw 103.105 “Geomembrane” means an essentially impermeable membrane used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system designed to limit the movement of liquid or gas into or out of the system.

Repeal Env-Sw 103.11, effective 10-28-05 (Document #8460-B), as follows:

~~Env-Sw 103.11 “Geonet” means a type of a geosynthetic that allows planar flow of liquids.~~

Readopt and renumber Env-Sw 103.12 through Env-Sw 103.15, effective 10-28-05 (Document #8460-B), as Env-Sw 103.16 through Env-Sw 103.19 to read as follows:

Env-Sw 103.126 “Geosynthetics” means the generic classification of all synthetic materials used in geotechnical engineering applications, including geotextiles, geogrids, geomembranes, and geocomposites.

Env-Sw 103.137 “Geotextile” means any permeable textile used with foundation, soil, rock, earth or any other geotechnical engineering-related material as an integral part of a man-made structure or system which is designed to act as a filter to prevent the flow of soil fines or other particles into drainage systems, or to provide planar flow for drainage, or to serve as a cushion to protect geomembranes, or to provide structural support.

Env-Sw 103.148 “Groundwater” means water below the land surface in the zone of saturation of soil or rock and includes perched water separated from the main body of groundwater by an unsaturated zone.

Env-Sw 103.159 “Groundwater table” means the seasonally high surface of groundwater naturally occurring at atmospheric pressure.

Readopt with amendment and renumber Env-Sw 103.16 through Env-Sw 103.18, effective 10-28-05 (Document #8460-B), as Env-Sw 103.20 through Env-Sw 103.22 to read as follows:

Env-Sw 103.4620 “Hazardous waste” means hazardous waste as defined by ***in*** RSA 147-A:2, VII, namely “a solid, semi-solid, liquid or contained gaseous waste, or any combination of these wastes:

(a) Which, because of either quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or
- (2) Pose a present or potential threat to human health or the environment when improperly treated, stored, disposed of, or otherwise mismanaged.

(b) Or which has been identified as a hazardous waste by the department using the criteria established under RSA 147-A:3, I or as listed under RSA 147-A:3, II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means. Such wastes do not include radioactive substances that are regulated by the Atomic Energy Act of 1954, as amended.”

Env-Sw 103.4721 “Hazardous waste rules” means the rules found in ~~Env-Wm 101, Env-Wm 110, Env-Wm 211 through Env-Wm 216, Env-Wm 351 through Env-Wm 353 and Env-Wm 400 through Env-Wm 1000~~ ***Env-Hw 100 et. seq.***

Env-Sw 103.4822 “Hearing” means “hearing” as defined by ***in*** RSA 149-M:4, X, namely “the opportunity for the submission of written or oral comments, or both.”

Readopt and renumber Env-Sw 103.19, effective 10-28-05 (Document #8460-B), as Env-Sw 103.23 to read as follows:

Env-Sw 103.4923 “High level disinfection” means inactivation of all vegetative bacteria, fungi, lipophilic/hydrophilic viruses, parasites and mycobacteria at a 6 Log₁₀, or a million-fold, reduction or greater.

Readopt with amendment and renumber Env-Sw 103.20 through Env-Sw 103.22, effective 10-28-05 (Document #8460-B), as Env-Sw 103.24 through Env-Sw 103.26 to read as follows:

Env-Sw 103.204 “Household hazardous waste” means ~~hazardous~~ ***household*** waste ***that would be hazardous waste if*** generated from non-commercial usage by individuals in their living abodes ***anywhere other than in a household.***

Env-Sw 103.245 “Household infectious waste” means infectious waste generated from non-commercial medical treatment of individuals in ~~personal residences~~ ***households***, such as needles from self-administered insulin treatments.

Env-Sw 103.226 “Identification of parties” means, in the context of filing an application or registration pursuant to the solid waste rules, all of the following information for the applicant or registrant, facility operator, ***facility owner***, and property owner:

(a) If an individual, the individual’s name, date of birth, mailing address, telephone number ***and email address***; or

(b) If other than an individual:

- (1) The information required by RSA 149-M:10, I(b); ~~and~~

(2) Affirmation of registration with the New Hampshire Secretary of State to do business in New Hampshire, including the date registered, the Business Identification Number (BIN) assigned by the New Hampshire Secretary of State and current standing; and

(3) The authorized contact information. ~~The name, title, mailing address and telephone number of the individual associated with and designated by the identified party to be the contact individual for matters concerning the application or registration being filed.~~

Readopt and renumber Env-Sw 103.23 and Env-Sw 103.24, effective 10-28-05 (Document #8460-B), as Env-Sw 103.27 and Env-Sw 103.28 to read as follows:

Env-Sw 103.237 “Imminent hazard” means any condition or practice which presents a substantial and immediate threat to human health, safety or the environment.

Env-Sw 103.248 “Impermeable” means not permitting passage through a substance which, when used in the solid waste rules to describe any soil or geosynthetic component of a landfill liner or cap, means the component has a saturated hydraulic conductivity of 1×10^{-7} cm/sec or less.

Readopt with amendment and renumber Env-Sw 103.25, effective 10-28-05 (Document #8460-B), as Env-Sw 103.29 to read as follows:

Env-Sw 103.259 “Incinerator” means “incinerator” as defined by *in* RSA 149-M:4, X-a, namely “a facility which employs a method of using controlled thermal combustion, including flame combustion, to thermally break down waste or other materials, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.”

Readopt and renumber Env-Sw 103.26 through Env-Sw 103.29, effective 10-28-05 (Document #8460-B), as Env-Sw 103.30 through Env-Sw 103.33 to read as follows:

Env-Sw 103.2630 “Inert construction and demolition debris” means construction and demolition debris which is comprised of materials that do not degrade, combust or generate leachate.

Env-Sw 103.2731 “Infectious agent” means any organism, such as a virus, bacteria, parasite, fungus or other microbial agent which is capable of being communicated by invasion and multiplication in body tissues and body fluids, and capable of causing disease or adverse health impacts in humans.

Env-Sw 103.2832 “Infectious waste” means any waste which because of its infectious nature may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Env-Sw 103.2933 “Insignificant effect on environmental quality” means a minimal adverse change in the quality of groundwater, surface water, air quality or public health, either for the short term or the long term.

Adopt Env-Sw 103.34 to read as follows:

Env-Sw 103.34 “Intermediate cover” means the material placed over waste at a landfill prior to constructing a cap. The term does not include “daily cover.”

Readopt and renumber Env-Sw 103.30 through Env-Sw 103.35, effective 10-28-05 (Document #8460-B), as Env-Sw 103.35 through Env-Sw 103.40 to read as follows:

Env-Sw 103.305 “Land owner” means the record owner of a parcel of land upon which a facility is or is proposed to be located.

Env-Sw 103.346 “Landfill reclamation” means the excavation of a portion or all of a landfill for the purpose of reducing landfill volume; reducing closure and post-closure costs by complete or partial removal of the landfill; creating capacity; or reducing adverse environmental impacts through the mining and separation of waste and soils into recyclable, reusable or combustible components. The term does not include recontouring, regrading or relocating existing waste at a landfill to reduce the landfill footprint or to achieve final grades.

Env-Sw 103.327 “Landfill” means a facility which collects and disposes of waste by landfilling methods. The term includes facilities that collect and store waste indefinitely. The term does not include incinerators, land application sites, surface impoundments and injection wells.

Env-Sw 103.338 “Landfilling” means a method of disposing of solid waste, by the intentional placement of the solid waste in or on land where it will remain after closure.

Env-Sw 103.349 “Leachate” means a liquid, including any suspended components in the liquid, which has contacted or passed through solid waste.

Env-Sw 103.3540 “Lift” means a layer of compacted solid waste and the cover material immediately above it in a landfill or other land disposal site.

Readopt with amendment and renumber Env-Sw 103.36 and Env-Sw 103.37, effective 10-28-05 (Document #8460-B), as Env-Sw 103.41 and Env-Sw 103.42 to read as follows:

Env-Sw 103.3641 “Limited private facility” means a type of “private facility” as defined by *in* RSA 149-M:4, XVI that is permitted to receive only wastes generated by permittee.

Env-Sw 103.3742 “Limited public facility” means a type of “public facility” as defined by *in* RSA 149-M:4, XVIII that is permitted to receive only wastes generated by sources that are within the permittee’s jurisdiction or within the jurisdiction of other towns, governmental units, agencies, political subdivisions or districts that have entered into a written agreement with the permittee for management of said waste.

Readopt and renumber Env-Sw 103.38 and Env-Sw 103.39, effective 10-28-05 (Document #8460-B), as Env-Sw 103.43 and Env-Sw 103.44 to read as follows:

Env-Sw 103.3843 “Limited service” means the service type provided by a public or private facility which, through the conditions of the permit, allows the facility to receive authorized waste from specified sources only.

Env-Sw 103.3944 “Liner” means a barrier that restricts the downward or lateral flow of the overlying waste and its constituents, or leachate. Liners can be either natural, for instance clay, or man-made, for instance plastic.

Adopt Env-Sw 103.45 to read as follows:

Env-Sw 103.45 “Liquid waste” means any waste that is determined to contain “free liquids” as defined by Method 9095B (Paint Filter Liquids Test), included in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods” (EPA Publication SW-846), available as noted in Appendix B.

Readopt and renumber Env-Sw 103.40 and Env-Sw 103.41, effective 10-28-05 (Document #8460-B), as Env-Sw 103.46 and Env-Sw 103.47 to read as follows:

Env-Sw 103.406 “Low permeability cap” means a cap installed for landfill closure with a permeability of not greater than 1×10^{-5} cm/sec.

Env-Sw 103.447 “Lower explosive limit” means the lowest concentration by percentage in air of a flammable gas or vapor in which an explosion can occur upon ignition at 25°C (78°F) at atmospheric pressure.

Readopt with amendment and renumber Env-Sw 103.42, effective 10-28-05 (Document #8460-B), as Env-Sw 103.48 to read as follows:

Env-Sw 103.42~~8~~ “Manure” means manure as defined ~~by~~ *in* RSA 149-M:4, XI, namely “animal feces and urine with natural organic bedding materials such as hay, sawdust, straw or wood chips, but exclusive of human waste.” The term also includes animal feces and urine which are not mixed with bedding or which are mixed with newsprint that has been used as bedding.

Readopt and renumber Env-Sw 103.43, effective 7-1-14 (Document #10593), as Env-Sw 103.49 to read as follows:

Env-Sw 103.43~~9~~ “Mechanically-stabilized earth berm” means an engineered reinforced soil berm consisting of alternating layers of compacted soil and reinforcing elements to retain earth for embankment support.

Readopt and renumber Env-Sw 103.46, Env-Sw 103.44, and Env-Sw 103.45, effective 10-28-05 (Document #8460-B), as Env-Sw 103.50 through Env-Sw 103.52 to read as follows:

Env-Sw 103.46~~50~~ “Mixed municipal solid waste” means municipal solid waste that is not separated by type.

Env-Sw 103.44~~51~~ “Monitoring well” means a well used for the purpose of sampling groundwater and/or measuring groundwater elevations.

Env-Sw 103.45~~52~~ “Monofill” means a landfill or landfill cell into which only one type of waste is placed.

Adopt Env-Sw 103.53 and Env-Sw 103.54 to read as follows:

Env-Sw 103.53 “Motor vehicle crusher” means “motor vehicle crusher” as defined in RSA 149-M:4, XI-a, namely “a mechanical device used to intentionally flatten and reduce the volume of end-of-life motor vehicles to facilitate the transportation of such vehicles to a scrap processing facility. The term includes both mobile and stationary devices. The term also includes loggers and balers.”

Env-Sw 103.54 “Motor vehicle recycling facility” means “motor vehicle salvage facility” as defined in RSA 149-M, XI-b, namely “a place where end-of-life motor vehicles are received, kept and drained, dismantled, or otherwise processed for final disposal at a scrap metal processing facility. The term shall not include any facility that does not require a license under RSA 236:111 through RSA 236:129.”

Readopt and renumber Env-Sw 103.47 through Env-Sw 103.53, effective 10-28-05 (Document #8460-B), as Env-Sw 103.55 through Env-Sw 103.61 to read as follows:

Env-Sw 103.47~~55~~ “Municipal solid waste (MSW)” means solid waste generated at residences, commercial or industrial establishments, and institutions, but excluding construction and demolition debris, automobile scrap and other motor vehicle waste, infectious waste, asbestos waste, contaminated soil and other absorbent media and ash other than ash from household stoves.

Env-Sw 103.48~~56~~ “New facility” means a facility not existing as of October 29, 1997. The term includes proposed facilities and landfill expansions beyond the footprint boundaries.

Env-Sw 103.49~~57~~ “Non-friable asbestos” means any asbestos material which does not contain friable asbestos.

Env-Sw 103.508 “Non-friable category I asbestos” means “category I nonfriable asbestos containing material (ACM)” as defined in 40 CFR 61, namely “asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than one percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy.”

Env-Sw 103.549 “Non-friable category II asbestos” means “category II nonfriable asbestos containing material (ACM)” as defined in 40 CFR 61, namely “any material, excluding Category I nonfriable ACM, containing more than one percent asbestos as determined using the methods specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.”

Env-Sw 103.5260 “Non-landfill facility” means a facility which is not a landfill, including collection, storage and transfer facilities, processing or treatment facilities and land application sites.

Env-Sw 103.5361 “Nonpoint sources” means pollution sources that are diffuse by nature, in that the pollution emitted does not normally enter the environment by discrete conveyances as do point sources. Nonpoint sources of pollution potentially result from activities associated with agriculture, silviculture, mining of sand and gravel, urban storm runoff, urban and rural construction, subsurface disposal systems, deicing salts from highways, and sludge, septage and solid waste disposal on the land.

Readopt with amendment and renumber Env-Sw 103.54, effective 10-28-05 (Document #8460-B), as Env-Sw 103.62 to read as follows:

Env-Sw 103.5462 “Open burning” means “open burning” as defined ~~by~~ ***in*** 40 CFR 61, namely “the combustion of solid waste without:

- (a) Control of combustion air to maintain adequate temperature for efficient combustion;
- (b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
- (c) Control of the emissions of the combustion products.”

Repeal Env-Sw 103.55, effective 10-28-05 (Document #8460-B), as follows:

~~Env-Sw 103.55 “Owner” means a person who owns a facility or part of a facility.~~

Readopt with amendment Env-Sw 104.01 and Env-Sw 104.02, effective 10-28-05 (Document #8460-B), cited and to read as follows:

PART Env-Sw 104 SOLID WASTE RULE DEFINITIONS: P THROUGH Z

Env-Sw 104.01 “Permit” means “permit” as defined ~~by~~ ***in*** RSA 149-M:4, XIV, namely “an authorization from the department for the construction and operation of a facility.”

Env-Sw 104.02 “Permit-by-notification” means a permit, obtained after supplying notification in accordance with the requirements of Env-Sw 311, authorizing the construction and operation of certain solid waste facilities as prescribed in Env-Sw 407, Env-Sw 507, Env-Sw 607, ***and*** Env-Sw 707, ~~and Env-Sw 809.~~

Readopt Env-Sw 104.03 through Env-Sw 104.06, effective 10-28-05 (Document #8460-B), to read as follows:

Env-Sw 104.03 “Permit-by-notification facility” means a facility authorized or requiring authorization by issuance of a permit-by-notification.

Env-Sw 104.04 “Permit-exempt facility” means a facility not required by the solid waste rules to hold a permit issued pursuant to RSA 149-M, as specified by Env-Sw 302.03.

Env-Sw 104.05 “Permitted facility” means a facility with a valid permit issued pursuant to RSA 149-M and the solid waste rules.

Env-Sw 104.06 “Permittee” means a person to whom a permit to operate or construct a facility is issued pursuant to the solid waste rules or, in the case of a permit-exempt facility, the person who is responsible for construction, operation, maintenance, closure and post-closure monitoring of the facility.

Adopt Env-Sw 104.07 to read as follows:

Env-Sw 104.07 “Permittee identification” means all of the following information for the permittee:

(a) If an individual, the permittee’s name, permit number, mailing address, daytime telephone number and email address; or

(b) If other than an individual, the name and mailing address of the corporation, partnership, or association, and the authorized contact information.

Readopt and renumber Env-Sw 104.07 through Env-Sw 104.10, effective 10-28-05 (Document #8460-B), as Env-Sw 104.08 through Env-Sw 104.11 to read as follows:

Env-Sw 104.078 “Person” means “person” as defined in RSA 149-M:4, XV, namely “any individual; business entity, including a trust, firm, joint stock company, corporation (including a government corporation); partnership; association; government agency; or political subdivision of the state.”

Env-Sw 104.089 “Phase” means, within a landfill, an area comprised of 2 or more stages and which is surrounded by berms that hydraulically separate the phase from other phases of the landfill when such phases have not yet received wastes or been constructed.

Env-Sw 104.0910 “Preliminary plan” means a plan for a proposed activity that provides sufficient information to determine that the proposed activity meets the requirements of the solid waste rules, but does not provide a level of detail or include documentation or features sufficient to implement the proposed activity in compliance with the solid waste rules. The term applies to design plans, operating plans, financial assurance plans, and closure plans for facilities.

Env-Sw 104.101 “Private facility” means a “private facility” as defined in RSA 149-M:4, XVI, namely “one whose permit is held by a person other than a government unit or agency or political subdivision of the state.”

Adopt Env-Sw 104.12 and Env-Sw 104.13 to read as follows:

Env-Sw 104.12 “Post-closure care” means the inspection, monitoring, maintenance, and repair of a facility, or any part thereof, after closure.

Env-Sw 104.13 “Post-use polymer” means “post-use polymer” as defined in RSA 149-M:4, XV-a, namely “a plastic to which all of the following apply:

- (a) The plastic is derived from industrial, commercial, agricultural, or domestic activities;
- (b) The plastic is not mixed with solid waste or hazardous waste;
- (c) The plastic’s use or intended use is as a feedstock for mechanical or chemical recycling; and

(d) The plastic has been sorted from solid waste and other regulated waste but may contain residual amounts of solid waste such as organic material and incidental contaminants or impurities such as paper labels and metal rings.”

Readopt and renumber Env-Sw 104.11 through Env-Sw 104.13, effective 10-28-05 (Document #8460-B), as Env-Sw 104.14 through Env-Sw 104.16 to read as follows:

Env-Sw 104.144 “Process” means any activity that changes the chemical, biological or physical characteristics of a waste.

Env-Sw 104.125 “Processed recyclable material” means a recyclable material which has been physically sorted and separated by material type, formed into bales or otherwise physically processed and packaged in a manner satisfying the specifications for transportation to and acceptance by a market that will use the material for the production of certified waste-derived products.

Env-Sw 104.136 “Processing/treatment facility (P/T facility)” means a facility which collects waste from any location, stores the waste for a limited period of time, subsequently processes or treats the waste, subsequently stores the processed or treated waste for a limited period of time and ultimately transfers the treated or processed waste to another location. The term excludes collection, storage and transfer facilities, landfills and land application sites.

Readopt with amendment and renumber Env-Sw 104.14, effective 10-28-05 (Document #8460-B), as Env-Sw 104.17 to read as follows:

Env-Sw 104.147 “Property owner” means the record owner of the parcel of land or structures, or both, where a facility is or is proposed to be located. The term includes “land owner.” and “facility owner.”

Readopt and renumber Env-Sw 104.15 through Env-Sw 104.17, effective 10-28-05 (Document #8460-B), as Env-Sw 104.18 through Env-Sw 104.20 to read as follows:

Env-Sw 104.158 “Public benefit” means “public benefit” as defined in RSA 149-M:4, XVII, namely “the protection of the health, economy and natural environment of the state of New Hampshire consistent with RSA 149-M:11.”

Env-Sw 104.169 “Public facility” means “public facility” as defined in RSA 149-M:4, XVIII, namely “one whose permit is held by a town or other governmental unit or agency or political subdivision of the state, or a combination thereof.”

Env-Sw 104.1720 “Putrescible material” means any organic material which can decompose and give rise to foul odors and noxious by-products.

Adopt Env-Sw 104.21 to read as follows:

Env-Sw 104.21 “Pyrolysis” means “pyrolysis” as defined in RSA 149-M:4, XVIII-a, namely “a manufacturing process through which post-use polymers are heated in the absence of oxygen, sometimes in the presence of catalysts, until thermally decomposed and are then cooled and condensed. The resulting chemicals, when separated from wastes, can provide raw materials for the production of plastics, lubricants, waxes, and other industrially useful chemicals.”

Readopt and renumber Env-Sw 104.18, effective 10-28-05 (Document #8460-B), as Env-Sw 104.22 to read as follows:

Env-Sw 104.1822 “Qualified professional engineer” means a person who is a registered professional engineer in New Hampshire and whose formal education, training and experience in the field of engineering falls within the scope of the professional engineering efforts required to be undertaken.

Adopt Env-Sw 104.23 to read as follows:

Env-Sw 104.23 “Recovered feedstock” means “recovered feedstock” as defined in RSA 149-M:4, XVIII-b, namely “one or more of the following materials that has been processed so it may be used as feedstock in an advanced recycling facility:

- (a) Post-use polymers;
- (b) Materials for which the United States Environmental Protection Agency has made a non waste determination pursuant to 40 C.F.R. 241.3(c), or has otherwise determined are feedstocks and not solid waste;
- (c) Recovered feedstock does not include unprocessed municipal solid waste; or
- (d) Recovered feedstock is not mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility.”

Readopt and renumber Env-Sw 104.19 and Env-Sw 104.20, effective 10-28-05 (Document #8460-B), as Env-Sw 104.24 and Env-Sw 104.25 to read as follows:

Env-Sw 104.19~~24~~ “Recyclable materials” means “recyclable materials” as defined in RSA 149-M:4, XIX, namely “materials that can be used to produce marketable goods, including but not limited to separated clear and colored glass, aluminum, ferrous and nonferrous metals, plastics, corrugated cardboard, motor vehicle batteries, tires from motor vehicles, and paper.” The term does not include:

- (a) Hazardous waste, hazardous air pollutants, and other waste not regulated as solid waste, as identified in Env-Sw 101.03;
- (b) Waste identified as non-reusable in Env-Sw 900, including asbestos and infectious waste; and
- (c) Wastes from an unspecified production or generation process, such as municipal solid waste incinerator ash and contaminated soils or absorbent media.

Env-Sw 104.20~~5~~ “Recycling facility” means a collection, storage and transfer facility which collects, stores and prepares recyclable materials for market and transfers processed recyclable materials to markets for recycling. The term includes “recycling center.”

Readopt with amendment and renumber Env-Sw 104.21 and Env-Sw 104.22, effective 10-28-05 (Document #8460-B), as Env-Sw 104.26 and Env-Sw 104.27 to read as follows:

Env-Sw 104.21~~6~~ “Recycling” means “recycling” as defined by *in* RSA 149-M:4, XX, namely “the collection, storage, processing and redistribution of recyclable materials.” The term excludes the redistribution of recyclable materials for any purpose constituting disposal as defined in RSA 149-M:4, VI, incineration or another purpose not directly related to the production of certified waste-derived products.

Env-Sw 104.22~~7~~ “Refuse” means “refuse” as defined by *in* RSA 149-M:4, XXI, namely “any waste product, solid or having the character of a solid rather than a liquid in that it will not flow readily without additional liquid, and which is composed wholly or partly of such materials as garbage, swill, sweepings, cleanings, trash, rubbish, litter, industrial or domestic solid wastes; organic wastes or residue of animals sold as meat; fruit, vegetable or animal matter from kitchens, dining rooms, markets, food establishments or any places dealing in or handling meat, fowl, fruits, grain or vegetables; offal, animal excreta, or the carcasses of animals; brick, plaster or other waste matter resulting from the demolition, alteration, or construction of buildings or structures; or accumulated waste material, cans, containers, tires, junk, or other such substances which may become a nuisance.” The term does not include yard waste, actively managed waste-derived products which

are certified for distribution and use pursuant to Env-Sw 1500, and bodies of deceased persons. The term includes recyclable materials, whether processed or unprocessed.

Adopt Env-Sw 104.28 to read as follows:

Env-Sw 104.28 “Registrant” means the person registering for an exemption, a permit, a permit modification, or another approval pursuant to the solid waste rules and who will be responsible for complying with the provisions thereof, if approval is granted.

Readopt and renumber Env-Sw 104.23 through Env-Sw 104.32, effective 10-28-05 (Document #8460-B), as Env-Sw 104.29 through Env-Sw 104.38 to read as follows:

Env-Sw 104.239 “Representative sample” means a sample collected from a population or whole that exhibits the average or typical properties of the larger population or whole.

Env-Sw 104.2430 “Research and development facility permit” means a permit issued pursuant to the solid waste rules authorizing research and development projects.

Env-Sw 104.2531 “Research and development permit facility” means a facility authorized or requiring authorization by issuance of a research and development facility permit.

Env-Sw 104.2632 “Research and development project (R&D project)” means a scientific study involving the collection, storage, transfer, processing, treatment or disposal of solid waste, that is conducted by one or more investigators, qualified by reason of education and experience, and which is intended to further fundamental knowledge, evaluate processes or technologies, and generate and interpret data relative to solid waste management.

Env-Sw 104.2733 “Residual waste” means solid waste remaining after processing, treatment or disposal of solid waste or as a by-product of processing or treatment or disposal of solid waste, including leachate, decomposition gases and waste-derived products not certified for distribution and use pursuant to Env-Sw 1500. The term includes “residuals.”

Env-Sw 104.2834 “Reuse” means the act of placing a waste into service again, subsequent to its generation.

Env-Sw 104.2935 “Runoff” means the liquid that drains from an area as surface flow.

Env-Sw 104.306 “Salvaged item or material” means an item or material which has been recovered or diverted from the solid waste stream and, without processing or treatment except for incidental cleaning, reconditioning or repair, is or will be used in a manner consistent with its original purpose. Examples include used auto parts which are removed from the vehicle and reused as auto parts on another vehicle; used furniture pieces which are repaired or restored for use as furniture; used tools or equipment which are reconditioned and returned to use as tools or equipment; left-over latex paint used as paint; scrap fabric used as fabric; scrap lumber used as lumber; and used brick used as brick.

Env-Sw 104.317 “Saturated hydraulic conductivity” means the rate of laminar flow of water through a unit cross-sectional area of porous medium under a unit hydraulic gradient at a standard temperature. The term includes “coefficient of permeability.”

Env-Sw 104.328 “Saturated zone” means that part of the earth’s crust in which the interconnected voids are filled with water at a pressure equal to or greater than atmospheric pressure. The term includes “zone of saturation.”

Adopt Env-Sw 104.39 to read as follows:

Env-Sw 104.39 “Scrap metal” means bits and pieces of metal parts or metal pieces that may be combined together with bolts or soldering which when worn or superfluous can be recycled.

Readopt with amendment and renumber Env-Sw 104.33, effective 10-28-05 (Document #8460-B), as Env-Sw 104.40 to read as follows:

Env-Sw 104.~~33~~**40** “Select recyclable material” means a recyclable material, *including containers and packaging*, comprised of one of the following materials: paper, cardboard, glass, plastic, ferrous metal, non-ferrous metal, or textile materials.

Readopt and renumber Env-Sw 104. 34 and Env-Sw 104.35, effective 10-28-05 (Document #8460-B), as Env-Sw 104.41 and Env-Sw 104.42 to read as follows:

Env-Sw 104.~~34~~**41** “Service area” means the area(s) or place(s) from which a facility receives waste, typically identified by geographic location or by generator source, or a combination thereof.

Env-Sw 104.~~35~~**42** “Service type” means the type of service a facility provides based on the source of waste received, as follows:

- (a) Unlimited service, as is provided by a commercial facility; or
- (b) Limited service, as is provided by either a limited public or limited private facility.

Readopt with amendment and renumber Env-Sw 104.36 and Env-Sw 104.37, effective 10-28-05 (Document #8460-B), as Env-Sw 104.43 and Env-Sw 104.44 to read as follows:

Env-Sw 104.~~36~~**43** “Solid waste” means “solid waste” as defined ~~by~~ *in* RSA 149-M:4, XXII, namely “any matter consisting of putrescible material, refuse or residue from an air pollution control facility; and other discarded or abandoned material. It includes solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. For purposes of this chapter [RSA 149-M] it does not include hazardous wastes as defined in RSA 147-A:2; solid or dissolved materials in irrigation return flows; cut or uprooted tree stumps buried on-site with local approval if required, provided that such burial locations are not located within 75 feet of any drinking water supply; municipal and industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended; source, special nuclear or by-product materials as defined ~~by~~ *in* the Atomic Energy Act of 1954, as amended; ~~or~~ septage or sludge as defined in RSA 485-A:2, IX-a and XI-a,” ~~that is to say sludge which is not disposed at solid waste facilities permitted under RSA 149-M,~~ *or post-use polymers and recovered feedstocks converted at an advanced recycling facility or held at such facility prior to conversion.*” The term “solid waste” also does not include yard waste, actively managed waste-derived products which are certified for distribution and use pursuant to Env-Sw 1500, ~~and~~ bodies of deceased persons, *and sludge which is not disposed at solid waste facilities permitted under RSA 149-M.*

Env-Sw 104.~~37~~**44** “Solid waste management” means “solid waste management” as defined ~~by~~ *in* RSA 149-M:4, XXIII, namely “the systematic administration of activities for the collection, source separation, processing, treatment, transportation, transfer, storage, recovery and disposal of solid waste.” The term includes “management of solid waste.”

Readopt and renumber Env-Sw 104.38 and Env-Sw 104.39, effective 10-28-05 (Document #8460-B), as Env-Sw 104.45 and Env-Sw 104.46 to read as follows:

Env-Sw 104.~~38~~**45** “Solid waste facility operator training” means professional or technical instruction which supplies the required amount of solid waste management information as provided and approved by the department pursuant to Env-Sw 1600.

Env-Sw 104.39~~46~~ “Solid waste rules” means those rules found in subtitle Env-Sw.

Adopt Env-Sw 104.47 to read as follows:

Env-Sw 104.47 “Solvolysis” means “solvolysis” as defined in RSA 149-M:4, XXII-a, namely “a manufacturing process through which post-use polymers are purified with the aid of solvents, while heated at low temperatures and/or pressurized to make useful products, allowing additives and contaminants to be removed.” The products of solvolysis include monomers, intermediates, and valuable chemicals and raw materials. The process includes but is not limited to hydrolysis, amyolysis, ammonolysis, methanolysis, and glycolysis.”

Readopt and renumber Env-Sw 104.40, effective 10-28-05 (Document #8460-B), as Env-Sw 104.48 to read as follows:

Env-Sw 104.40~~8~~ “Source water protection inventory” means a list, compiled, and maintained by the department, which identifies regulated or permitted sites that are known or potential threats to drinking water quality.

Readopt with amendment and renumber Env-Sw 104.41, effective 10-28-05 (Document #8460-B), as Env-Sw 104.49 to read as follows:

Env-Sw 104.41~~9~~ “Source reduction” means “source reduction” as defined in RSA 149-M:4, XXIV, namely ~~“changing industrial processes, technologies and product components with the specific objective of reducing the amount or toxicity of waste at the source”~~ *the practice of reducing the quantity or toxicity of waste generated at the source, before recycling, processing, disposal or treatment, by changing the processes that first generated the waste. Source reduction includes waste reduction.*”

Readopt and renumber Env-Sw 104.42 through Env-Sw 104.47, effective 10-28-05 (Document #8460-B), as Env-Sw 104.50 through Env-Sw 104.55 to read as follows:

Env-Sw 104.42~~50~~ “Source separation” means dividing solid waste into some or all of its component parts at the point of generation.

Env-Sw 104.43~~51~~ “Stage” means, within a landfill, an area comprised of 2 or more cells and which is surrounded by berms that hydraulically separate the stage, when active, from other stages of the landfill when such other stages have not yet received wastes or been constructed.

Env-Sw 104.44~~52~~ “Standard permit” means a permit to construct and operate a solid waste facility, issued pursuant to RSA 149-M as follows:

- (a) For a facility permitted on or after October 29, 1997, pursuant to Env-Sw 314;
- (b) For a facility permitted before October 29, 1997, pursuant to the provisions of Env-Sw 307.

Env-Sw 104.45~~53~~ “Standard permit facility” means a facility authorized or requiring authorization by issuance of a standard permit.

Env-Sw 104.46~~54~~ “State plan” means “state plan” as defined in RSA 149-M:4, XXVI, namely “the state solid waste management plan developed under RSA 149-M:29.”

Env-Sw 104.47~~55~~ “Storage” means the temporary accumulation, containment or stockpiling of wastes.

Readopt with amendment and renumber Env-Sw 104.48, effective 10-28-05 (Document #8460-B), as Env-Sw 104.56 to read as follows:

Env-Sw 104.48~~56~~ “Surface water” means “surface waters of the state” as defined ~~by~~ *in* RSA 485-A:2, XIV, namely “all perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses and other bodies of water, natural or artificial.”

Readopt and renumber Env-Sw 104.49 through Env-Sw 104.51, effective 10-28-05 (Document #8460-B), as Env-Sw 104.57 through Env-Sw 104.59 to read as follows:

Env-Sw 104.49~~57~~ “Tank” means a device designed to contain solid waste in a liquid or gaseous form, including leachate, for storage or transportation.

Env-Sw 104.50~~8~~ “Temporary permit” means a permit issued prior to October 29, 1997, pursuant to a rule codified as Env-Wm 315 effective July 1, 1991 and amended December 24, 1991.

Env-Sw 104.51~~9~~ “Temporary permit facility” means a facility holding a temporary permit.

Adopt Env-Sw 104.60 to read as follows:

Env-Sw 104.60 “Terminate” means to permanently end any further use of the permit or other approval.

Readopt and renumber Env-Sw 104.52 through Env-Sw 104.55, effective 10-28-05 (Document #8460-B), as Env-Sw 104.61 through Env-Sw 104.64 to read as follows:

Env-Sw 104.52~~61~~ “Time of concentration” means the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the design point.

Env-Sw 104.53~~62~~ “Transfer” means, depending on the context in which it is used:

- (a) Removal of waste from one location to another location; or
- (b) Authorizing a permit to be held by a new permittee, pursuant to the type IV permit modification criteria and procedures in Env-Sw 315.

Env-Sw 104.54~~63~~ “Transfer station” means a solid waste collection, storage and transfer facility, which collects, stores and transfers solid waste, including non-recyclable waste.

Env-Sw 104.55~~64~~ “Treat” means to process a waste by a method or technique that uses an external agent or agents to cause a chemical, biological or physical change, said agents to include heat, chemicals, or incorporation of other substances or materials.

Readopt with amendment and renumber Env-Sw 104.56, effective 10-28-05 (Document #8460-B), as Env-Sw 104.65 to read as follows:

Env-Sw 104.56~~65~~ “Type of waste” means a category of waste, at least as specific as the following, which describes the belonging waste by its material composition or other distinguishing characteristics:

- (a) *Asbestos waste*;
- (~~ab~~) Ash;
- (~~bc~~) Bulky waste;
- (~~cd~~) Construction and demolition debris;
- (~~de~~) Hazardous waste;

- (~~ef~~) Household hazardous waste;
- (~~fg~~) Household infectious waste;
- (~~gh~~) Infectious waste;
- (~~hi~~) Municipal solid waste;
- (~~ij~~) Putrescible waste;
- (~~jk~~) Recyclable materials; ***and***
- (~~k~~) ~~White goods; and~~
- (l) Yard waste.

Readopt and renumber Env-Sw 104.57 and Env-Sw 104.58, effective 10-28-05 (Document #8460-B), as Env-Sw 104.66 and Env-Sw 104.67 to read as follows:

Env-Sw 104.57~~66~~ “Unlimited service” means the service type provided by a commercial facility which, through the conditions of the permit, allows the facility to receive authorized waste from any source, including the spot market.

Env-Sw 104.58~~67~~ “Unsaturated zone” means the zone between the land surface and the saturated zone in which the void spaces in soil or rock are only partially or intermittently filled with water. The term includes the “zone of aeration.”

Readopt with amendment and renumber Env-Sw 104.59, effective 10-28-05 (Document #8460-B), as Env-Sw 104.68 to read as follows:

Env-Sw 104.59~~68~~ “Unsuitable waste” means waste for which a processing or treatment facility is not designed and which, if processed or treated by that facility, can adversely ~~effect~~ ***affect*** the quality of the products or materials being produced by the facility or the quality of residual waste generated by the facility to the extent that the residuals cannot be managed as required by Env-Sw 505.

Readopt and renumber Env-Sw 104.60, effective 10-28-05 (Document #8460-B), as Env-Sw 104.69 to read as follows:

Env-Sw 104.60~~69~~ “Vector” means any carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and other vermin.

Readopt and renumber Env-Sw 104.61, effective 7-1-14 (Document #10593), as Env-Sw 104.70 to read as follows:

Env-Sw 104.61~~70~~ “Vertical expansion” means an increase in the maximum permitted final elevation of a landfill to increase landfill capacity. The term does not include the placement of waste over an existing landfill where the increase in capacity is primarily associated with a lateral expansion.

Readopt and renumber Env-Sw 104.62 through Env-Sw 104.68, effective 10-28-05 (Document #8460-B), as Env-Sw 104.71 through Env-Sw 104.77 to read as follows:

Env-Sw 104.62~~71~~ “Waste-derived product” means a material or item which is produced, in whole or in part, using materials or items which are recovered or diverted from the solid waste stream.

Env-Sw 104.~~6372~~ ***6472*** “Waste reduction” means the reduction of waste at the source by changing industrial processes, technologies, and product components with the specific objective of reducing the quantity or rate at which waste is generated.

Env-Sw 104.~~6473~~ ***6573*** “Waste shipment record” means a shipping document, originated and signed by the waste generator, which is used to track and substantiate the disposition of waste.

Env-Sw 104.~~6574~~ ***6674*** “Wetland” means an area that is subject to the jurisdiction of the department under RSA 482-A.

Env-Sw 104.~~6675~~ ***6775*** “White goods” means a generic term for a variety of discarded household appliances, including clothes washers, clothes dryers, stoves, refrigerators, freezers, dishwashers and air conditioners.

Env-Sw 104.~~6776~~ ***6876*** “Working face” means the portion of a landfill where solid waste is being actively deposited, spread, compacted, and covered.

Env-Sw 104.~~6877~~ ***6977*** “Yard waste” means leaves, grass clippings, garden debris, and small or chipped branches.

APPENDIX A: STATE STATUTES IMPLEMENTED

Rule	State Statute(s) Implemented
Env-Sw 101	RSA 149-M:7, XVI
Env-Sw 102	RSA 149-M:7, XVI
Env-Sw 103	RSA 149-M:7, XVI
Env-Sw 104	RSA 149-M:7, XVI

APPENDIX B: INCORPORATED REFERENCE

Rule	Reference	Source
Env-Sw 103.45	“Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”	EPA Publication SW-846